

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

DARREN BENJAMIN	*	CIVIL ACTION NO. 12-2520
VERSUS	*	JUDGE DOHERTY
COMMISSIONER OF SOCIAL SECURITY	*	MAGISTRATE JUDGE HILL

REPORT AND RECOMMENDATION

This matter was referred to the undersigned for Report and Recommendation. A Social Security Scheduling Order was issued on January 14, 2013, setting appellant's brief deadline for March 1, 2013. [rec. doc. 10]. After claimant, Darren Benjamin ("Benjamin"), failed to timely file his brief, the undersigned issued an Order to Show Cause on March 22, 2013, setting a hearing for April 17, 2013. [rec. doc. 12].

On April 17, 2013, the Court called the docket for the hearing on the Order to Show Cause. Benjamin failed to appear for the hearing. Assistant U.S. Attorney, Katherine W. Vincent, appeared on behalf of the U.S. Commissioner Social Security Administration and advised the Court that Benjamin had not contacted her office prior to the hearing. Benjamin has also failed to contact the undersigned's office or the Clerk of Court's office.

Federal Rules of Civil Procedure Rule 16 provides that the Court may issue any just orders if a party fails to obey a scheduling order. Because Benjamin failed to comply with the Scheduling Order deadline and failed to appear for the hearing on the Order to

Show Cause, the undersigned recommends that the Court dismiss this action.

Accordingly, it is my recommendation that this matter be **DISMISSED** with prejudice based on the claimant's failure to prosecute.

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and F.R.Civ.Proc. 72(b), parties aggrieved by this recommendation have fourteen (14) business days from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Counsel are directed to furnish a courtesy copy of any objections or responses to the District Judge at the time of filing.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FACTUAL FINDINGS AND/OR THE PROPOSED LEGAL CONCLUSIONS REFLECTED IN THIS REPORT AND RECOMMENDATION WITHIN FOURTEEN (14) DAYS FOLLOWING THE DATE OF ITS SERVICE, OR WITHIN THE TIME FRAME AUTHORIZED BY FED.R.CIV.P. 6(b), SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING THE FACTUAL FINDINGS OR THE LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT, EXCEPT UPON GROUNDS OF PLAIN ERROR. *DOUGLASS V. UNITED SERVICES AUTOMOBILE ASSOCIATION*, 79 F.3D 1415 (5TH CIR. 1996).

Signed April 17, 2013, at Lafayette, Louisiana.

Copy sent: RFD, D. Benjamin
On: 4-17-2013
By: MBD


C. MICHAEL HILL
UNITED STATES MAGISTRATE JUDGE